

City of St. Marys Planning Commission
Michael J. Rich Statement
March 14, 2016

There has been significant public interest in this application for rezoning. It has been the subject of a number of press articles and public meetings that preceded the formal hearing process conducted by the Planning Commission. At its work session in January, the Planning Commission encouraged public comment at two hearings and by written submission. All documents related to this application were posted on the City's website. Under Section 110-185 of the City's zoning code, it is provided that a public hearing on a rezoning matter shall be conducted by the Planning Commission and Section 110-185(b)(7) states, in part, that the primary goal of the public hearing is "to solicit pertinent factual information which will be beneficial in helping the planning commission and the city council judge the merits of each specific proposed amendment."

The Planning Commission heard almost 5 hours of public comment. Including those who spoke more than once, there were 41 comments made by members of the public. Not including documents of public record and the report and detailed analysis of the regional impact by the Coastal Regional Commission, there were 21 documents posted on the website from the Applicant and the Planning Department as well as 49 written comments by residents and non-residents alike. The time to submit additional written comments was extended to March 7th at which time the public hearing was closed. Once the public hearing is closed, the Planning Commission and City Council conduct their review and determination of the application with no further opportunities for public hearings or comment.

In addition to the ten factors set forth in §110-185, the law requires consistency with other public documents that are incorporated by reference into the zoning code such as the city's comprehensive plan. Other documents of record like the resolutions of the Joint Development Authority, the City's Downtown Development Authority and the Camden Kings Bay Joint Land Use Study are important insofar as they identify the city's commitment to economic growth as a factor in how this application is considered against the criteria set forth in the zoning code.

I have read all of the material submitted to the Planning Department and listened closely to the statements that were made at the hearings both for and against the application. My support for the motion does not discount the objections and caveats that were expressed. Nor does it mean that the applicant's request should be granted unconditionally. However, the weight of all of the oral and written information received by the Planning Commission is more persuasive in favor of the motion than against it.

My notes indicate that a majority of the public comment received through written submissions to the planning department and the oral statements at the two public hearings were in favor of the rezoning. Many of those in favor also favored conditions being imposed that would assure environmental friendly uses, traffic and safety controls and environmental stewardship. The public comment in opposition to the application was somewhat evenly split between those who felt the application should be denied outright and those who felt rezoning was necessary but were concerned that the application was too vague as to what types of industry

might come to St. Marys if the zoning change were approved as filed. A few of the opponents felt that it was more appropriate for the Joint Development Authority to find users rather than allowing the applicant to do so. One uniform objection was that the noise, traffic and safety concerns would be inconsistent with the residential nature of the surrounding properties.

The Gillman plant was first erected in the 1940s and the property on which it was located was zoned industrial from that time through 2007 when LandMar sought and received a rezone to planned development residential mixed use. For sixty years the plant was the economic driver for city and the various land uses surrounding the plant. When the plant ceased operation, it was clear that any future use would have to deal with the fact that the site had become an environmental brownfield and that any use of the mill site thereafter would have to meet federal and state environmental clean-up laws and regulations. As was expressed at the hearings, the clean-up requirements differ for industrial uses compared to residential uses.

Because the site is under the control of the federal bankruptcy court, the application is being made with the consent of Michael Newsome, the trustee in bankruptcy. Mr. Newsome spoke at the public hearing and described how he has tried, without success until now, to market the property. Mr. Newsome's statement at the February 25th session was very clear that there was no likelihood of a sale under the present zoning and that the current cash balance in the estate was being diminished by marketing costs and taxes. Once that fund is depleted, the property would be put out for public auction and could be bought on speculation by any buyer with or without a plan for its use. In this case, the sale to the Applicant is contingent on rezoning and the Applicant has spent considerable time and effort in submitting a rationale for a rezoning to Industrial. The Applicant has also agreed to the special conditions which are a part of this motion.

The trustee in bankruptcy and the Joint Development Authority (JDA) noted that attempts to find a buyer for the property have been in vain because the property is not zoned industrial. The JDA noted that it is hampered in its ability to use state resources to market the property because it is not zoned for industrial use and that effective negotiations with potential buyers could not take place because of the current zoning classification.

Both the Chamber of Commerce and the city's Downtown Development Authority support the application. The Costal Regional Commission, in its final report of January 26th recommended that the city approve the zoning amendment contingent upon the developer and/or City ensuring adequate public facilities are in place to support the proposed development including water, wastewater removal and transportation facilities. The CRC also recommended that the site be adequately buffered, an item which is addressed in the special conditions proposed by the City.

A number of comments addressed the navigation issues and the environmental and conservation issues related to the site. To the extent other federal and state agencies have superseding jurisdiction over future uses of the site, any action by the City on this rezoning application will have no effect on the owner's or developer's obligations to comply with the laws, regulations and rulings from the agencies that have superseding authority. While the application and the special conditions do not go as far as some might prefer, I am satisfied that

the planned conservation area, the public access way and the buffering requirements, along with the requirements for site plan approval and special uses, are sufficient to reconcile the industrial development of the site and the environmental concerns that have been expressed.

What many people may not appreciate is the extent to which the zoning code allows the City to oversee the future use of this property if the rezoning is ultimately approved. The application provides that uses permitted in a light industrial or general industrial zone would be permitted in this proposed planned development. However, the current zoning code is explicit in that any use that will cause excess noise, fumes, dust, smoke, fire hazard or similar condition is not permitted unless the applicant for the use files a request for a special use permit. The conditions attached to this motion along with the existing provisions in the zoning code that relate to special uses provide limitations on development that meet the concerns expressed at the public hearings about how the property might be used in the future. Further, in addition to the role the city plays in the permitting process, the record in this application recognizes that agencies like the Navy, Coast Guard, Corps of Engineers, the State Department of Transportation, the State Department of Community Affairs and the State Department of Natural Resources all have roles to play in how the property is used irrespective of its zoning classification.

The concerns about noise, traffic, visual impact, pollution, odor, public safety and similar aspects of industrial uses that have created the most concern among those who object to the rezoning would fall within the special use provisions in the zoning code. The grant of a special use is discretionary and to the extent a special use is sought for a tract within the planned development, an application will have to be made for the use and will be subject to review by the planning department, a public hearing before the Planning Commission and ultimately, review by the City Council.

As it does with all matters presented to the Planning Commission for review, the city's planning department and the Community Development Director performed a comprehensive review on the application as part of the city's due diligence. Mr. Adams' report was well researched, documented and thorough. The report recommends approval of the application along with enumerated conditions that provide greater city control over the platting and permitting process to assure continuing city oversight should the application receive final approval. The final list of conditions completed on March 10th are well considered and add the kinds of protections that were sought through the verbal and written comments.

As was noted at the working session of the Planning Commission in January, the zoning code affirmatively requires that the Planning Commission determine whether the factors in favor of a rezone outweigh the ten factors set forth in §110-185(d) as a condition of approving a recommendation to the City Council that a property be rezoned.

The first three requirements relate to the legal appropriateness of the application; namely, does the rezone constitute a spot zone or a use or extension of a use that would be detrimental to the adjoining uses. Most of the residents' objections to the application related to the peaceful and quiet enjoyment of their properties and would fall into these three categories. There is no doubt that, when partially or fully developed as an industrial use, there will be traffic, noise,

visual and safety concerns for the residents who live at or near the site. Nevertheless, this site has historically been used as an industrial site and the fact that it's a brownfield suggests that it will never be suitable for residential use because the remediation costs on top of the purchase price would likely not be recoverable by a developer. Also, as noted in the public comment, there is infrastructure already installed in the way of wells, rail service and gas lines to support an industrial use. Traffic concerns are speculative and the written record acknowledges that a Georgia Department of Transportation study would be required in conjunction with any future industrial use of the property. When balancing the objections by the residents living in proximity to the site against the historic use of the property, the likelihood that it will not be useable as a residential development in the future and the stated need for a more diverse economy in the city as expressed by the comments in favor of the application, there is a sufficient factual and legal basis to find that a rezone would not contravene the first three requirements.

The fourth requirement relates to traffic patterns through residential neighborhoods. While an industrial use may increase traffic volume, there's no clear basis to assume that any future increase in traffic done in compliance with city permitting and GA DOT approval will necessarily create congestion, noise or safety concerns that would be adverse to the residential uses near the site. It should be noted that Osborne Street would be the likely avenue of ingress and egress and Osborne Street now bears the brunt of virtually all traffic into the downtown area for residences, city offices, places of worship, Cumberland Island, and downtown businesses.

Items 5 and 6 relate to expected growth and current plans for the city to acquire land for infrastructure services. There is no indication that a change of zone would affect the city's ability to provide infrastructure services to the site and any other area of the city.

With respect to the requirements in subsections 7, 8 and 9, the acquisition and use of the property will only improve the city's fiscal stability. It will not detrimentally affect levels of public service. Based on the public comment, it is in the interest of the city's short and long term development goals to have this property become useful. Public comment observed that the 2007 economic downturn had more effect on property values than the likelihood of this change of zone. If anything, failure to approve this application could result in detrimental changes to the city's fiscal stability, its long term development goals and the market values and tax rates of nearby properties.

The last requirement relates to the integration of a zone change with the city's master plan. In 2008, St. Marys, along with Kingsland, Woodbine and the County adopted a Joint Comprehensive Plan for the 20-year time period from 2007-2027. In the St. Marys portion of the plan, there are references to the need for the city to provide an opportunity for commercial and industrial growth in the city.

More recently, the city and the Navy participated in the Camden Kings Bay Joint Land Use Study published May 13, 2014, and adopted unanimously by the City Council on July 21, 2014. That study made several references to the Gillman site and the conclusions in that study are important insofar as it is a matter of public record in the city and underscores the city's commitment to play a role in facilitating business development in the city.

To the extent that the spur line operated by the St. Marys Railroad Company would be a compliment to the proposed industrial use if rezoned, the Camden Kings Bay Joint Land Use Study notes that development of the site would benefit both the Navy and the rail operator by making the railroad more efficient and profitable. The ability to use the rail line as an additional modality of ingress and egress to the Gillman site supports a finding that a change of zone for the mill site is appropriate. That study further stated that “[i]ncreasing employment opportunities and availability of services . . . will allow community residents and military families to be less reliant on distant economic centers and improve community economic sustainability.” The study also went on to say that “[t]here is a need to develop and fill industrial space for economic development purposes, to benefit the community and SUBASE Kings Bay.”

Section 110-185(d) also provides that “A negative finding on one or more of these criteria shall not preclude approval of a rezoning.” The issue of how a rezone would affect the immediately adjacent residences in terms of safety and traffic flow is an issue of deep personal concern to those who spoke at the public hearings and to the members of the Planning Commission. Given the conditions attached to this motion, it is my conclusion that any negative finding that could be made with respect to traffic, noise, pollution and residential use adjoining the site is outweighed by the ability of this application to satisfy the other requirements of section 110-185. The zoning process is designed to allow an owner to use his or her property for its highest and best use based on the conditions that exist at the time of the application. On balance, the prospective benefits of a rezone warrant a finding that a change of zone is appropriate and for those reasons I support the application and will vote to approve the application with the conditions suggested by the Planning Department.